

JUDICIAL COUNCIL *of* ASUCR

University of California, Riverside
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S17-C-01

Kuo v Karim

Decided April 27, 2017

CHIEF JUSTICE GBUJAMA delivered the opinion of the court:

In a 2-0-2 decision, the ASUCR Judicial Council has decided to rule In favor of the Petitioner, Elections Director Marcy Kuo against the Respondent President Shafi Karim.

Pursuant to the Judicial Rules of Procedure Title IV, Section 4:

- a. *Strikes are a way of assigning differing levels of corrective action based on the severity of a breach of the rules. Therefore, the Judicial Council does not have strike allocation guidelines, as the allocation will be based on the facts of the matter.*
- b. *Strikes will most often be assigned as a result of a guilty verdict in a case against a member of ASUCR. However, the Judicial Council has the authority to assign strikes in other situations when it feels it is necessary and proper. In situations where strikes are assigned as a result of something a guilty verdict, the notification of strikes assigned will be accompanied by a written explanation.*

The Judicial Council issuing one strike to President Karim would be most appropriate given his actions.

On April 3rd, 2017, the Judicial Council received a Complaint from the Petitioner alleging at the respondent:

1. *Exudes DISRUPTIVE and CHAOTIC behavior that is toxic to the well-being of 2017 ASUCR Elections.*
2. *Noncompliance with the current elections timeline and dissolution of parties as indicated in the official Judicial Ruling.*
3. *Fails to recognize that Judicial Ruling is final.*

4. *Abuse of presidential power by attempting to issue an unwarranted Executive Decisions:
1) Postpone the 2017 ASUCR Elections to Week 3,4,5.*
5. *Uses threatening and coercive tone of voice to demand staff to carry our unwarranted actions/orders.*

The Judicial Council found that claims 1-4 as described by the Petitioner during her testimony could best be embodied by the Respondent's issuing of the Executive Order. President Karim issued an Executive Order that would postpone the 2017 ASUCR Elections by two weeks:

Given the competing interpretations and confusion in regards to the ASUCR Constitution, Bylaws, Judicial Rules of Procedure and Elections Code, and questions over the legitimacy of the actions affecting the 2017 Elections Cycle. After consulting with the Executive Cabinet, Pro-Temp Jonathan Li, and Chief Justice Jo Gbujama, I am issuing an Executive Order to postpone 2017 ASUCR Elections by 2 weeks (starting Week 3 of Spring Quarter and instead of Week 1). This Executive Order is not meant to suspend, nullify, or disqualify any candidates regardless of when they have registered, but to only postpone elections to give us sufficient time so that we can ensure we have abided all procedures, standards, and laws

The Judicial Council finds that the President's Executive Order: (1) "exudes disruptive behavior that is reckless to the well-being of 2017 ASUCR Elections; (2) demonstrates noncompliance with the current elections timeline and dissolution of parties as indicated in the official Judicial Ruling; (3) fails to recognize that Judicial Ruling is final and (4) is unwarranted. Therefore, the Council is in agreement that the Respondent's actions warrant punitive action.

However, on April 3rd, 2017, the Judicial Council took action regarding the President's Executive Order in Majority Opinion S17-ZZ-01 with Chief Justice Jo Gbujama delivering the majority opinion:

In a unanimous decision, the ASUCR Judicial Council has decided to rule President's Karim's Executive Order as unconstitutional. Any orders that came from the Executive Order will be considered illegitimate and will not be recognized.

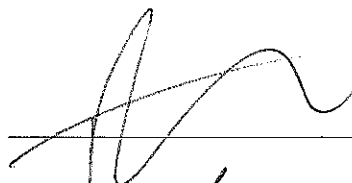
In MO S17-ZZ-01, Justice Matthew Whiles also delivered concurring opinion, which resulted in the Judicial Council issuing one strike to President Karim for disrupting the 2017 ASUCR Elections with his Executive Order:

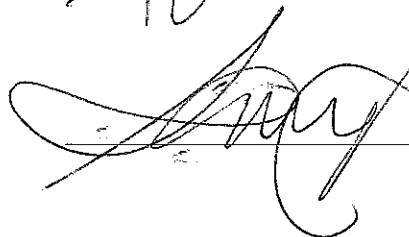
Ensuring that elections are fair and that ASUCR runs smoothly is the duty of Judicial Council to uphold. Attempts made to disrupt the elections cycle not only cause confusion, but also impede the ability for the student body to elect their representatives. Accordingly, I believe that it is not sufficient to merely nullify the executive order, but also that punitive action should be taken against President Karim for his attempt to obstruct the elections process and recklessly issuing an executive order that hinders the functioning of GSA.

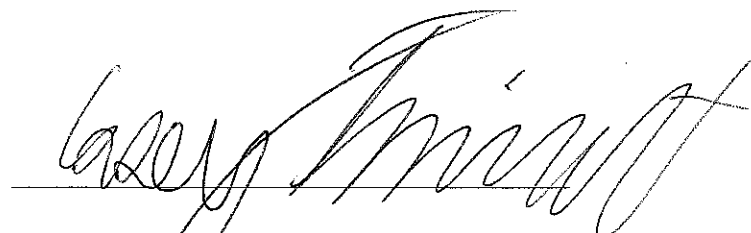
The Council believes that it would be inappropriate to issue any additional strikes to President Karim regarding the Executive Order because strikes have already been issued in MO S17-ZZ-01. Because the Council believes that charges 1-4 of the Petitioner's Complaint against the Respondent can best be embodied by the Executive Order, the Judicial Council has decided against issuing any strikes to the Respondent for disrupting elections by way of Executive Order.

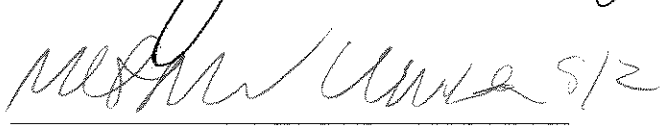
The Judicial Council found that claim 5 as described by the Petitioner during her testimony could best be embodied by the email conversations with the Respondent the Petitioner provided as evidence. In reviewing the emails and testimonies, the Judicial Council found that Respondent did "Use threatening and coercive tone of voice to demand staff to carry our unwarranted actions/orders". It should be noted that at no point during the hearing did the Respondent attempt to apologize if his tone had been perceived in such a manner. In fact, the Respondent didn't issue a response to the Petitioner's claims of verbal abuse.

The Judicial Council finds the Respondent's use of threatening and coercive tones of voice to demand staff to carry our unwarranted actions/orders warrants one strike pursuant to the ASUCR Penal System.

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